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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

18 Cr. 224 (AJC)

5 ALI SADR HASHEMI NEJAD,

6 Defendant.

Bail Hearing

7 -----x

8 New York, New York

9 April 18, 2018

2:30 p.m.

10 Before:

11 HON. ANDREW L. CARTER, JR.,

12 District Judge

13  
14 APPEARANCES

15 GEOFFREY S. BERMAN

Interim United States Attorney for the

16 Southern District of New York

ANDREW DeFILIPPIS

17 GARRETT LYNCH

Assistant United States Attorneys

18 ARNOLD & PORTER KAYE SCHOLER LLP

19 Attorneys for Defendant

BARUCH WEISS

20 ANDREW BAUER

TAL RACHEL MACHNES

21 ALSO PRESENT:

22 Michael Urbanowicz, Special Agent, FBI

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1 (Case called)

2 MR. DeFILIPPIS: Good afternoon, your Honor. Andrew  
3 DeFilippis and Garrett Lynch, for the government.

4 With us at counsel table is Special Agent Michael  
5 Urbanowicz, of the FBI.

6 THE COURT: For the defendant?

7 MR. WEISS: Good afternoon, your Honor, Baruch Weiss  
8 of Arnold & Porter, along with Andrew Bauer and Tal Machnes  
9 and, of course, we have Mr. Sadder.

10 THE COURT: Good afternoon.

11 We are here for a continued bail hearing.

12 The defense wanted to adjourn the hearing from last  
13 week in order to respond to the government's response or file  
14 their reply submission, which they have done. The government  
15 has also filed something as of yesterday so I think we're ready  
16 to go.

17 Let me just hear from the defense. Then I will hear  
18 from the government.

19 I will probably have a few questions for folks, but  
20 let me hear from the defense.

21 MR. WEISS: Thank you, your Honor.

22 I would like to begin by trying to answer the  
23 questions that your Honor posed to us last week. I think you  
24 left us with three questions or three issues that you wanted  
25 our argument or position or guidance on.

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1           In no particular order, one was the ties of Mr. Sadr  
2 to the United States, which I understand to be an important  
3 issue, and I am going to address that.

4           The second one is flight to Iran, and what is there to  
5 demonstrate that he would not flee or not have the opportunity  
6 to flee to Iran -- flee generally, of course, but I think most  
7 specifically to Iran.

8           Then the third question which I think you put to us,  
9 was, given the assets and the government's depiction of the  
10 wealth and affluence in the family, how do we guard against a  
11 situation, where even though there is a terrific bail package,  
12 he just flees, and say the father reimburses the cosigners for  
13 any losses they may suffer.

14           I think those were the three questions that the Court  
15 put to us. I'm prepared to direct myself to those questions  
16 and to address some other issues that the government has raised  
17 in its pleadings.

18           THE COURT: Before you do that, again, I have read  
19 your submissions.

20           In terms of the last concern that you have just talked  
21 about, I have seen the affirmations/affidavits from the  
22 proposed suretors indicating that they haven't had any  
23 communication with anyone who has promised them that they would  
24 reimburse them and the like, so you don't need to get into  
25 detail about that.

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1           My concern is still I am not exactly certain about the  
2           how close some of the suretors are to him. Some of suretors  
3           are putting up quite a bit of money and quite a bit of their  
4           assets. There are others who are proposing to sign a bond for  
5           \$10,000 and the like.

6           MR. WEISS: Right.

7           THE COURT: I don't know what that means relative to  
8           what their means are. I still do have this concern, I am still  
9           concerned about risk of flight, given his apparent financial  
10          means and the financial means of his father.

11          Even if I take it at face value that these individuals  
12          certainly haven't been promised that anyone is going to  
13          reimburse them for some of these individuals, they are not U.S.  
14          citizens. They are citizens of the other places.

15          Again, we don't need to get into too much speculation  
16          about that, but my concern is still that if he flees then it is  
17          certainly likely, based on what you have submitted, that these  
18          individuals may not get reimbursed, they would still be out in  
19          the cold, and I am still not sure how much that is a sting to  
20          him for some of these individuals if that were to happen.

21          So you can address that that way.

22          You don't need to go into the information about the  
23          affidavits and that these folks haven't been promised, no one  
24          has said anything to them about reimbursing them. I want to  
25          see if you can short circuit some of that.

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1 MR. WEISS: OK.

2 Thank you, your Honor.

3 THE COURT: Yes.

4 MR. WEISS: I was going to start with his ties to the  
5 United States, although if it is OK, alternatively I will pick  
6 up on this point, whichever your Honor prefers. I am obviously  
7 here to try to persuade you.

8 But maybe if the Court would let me address that issue  
9 a little bit later in the course of my presentation, because I  
10 think that once the Court sees the ties that he does have to  
11 the United States that will color all of this.

12 I think it will play a role in assessing all of this.

13 THE COURT: Let me ask you this, then, before you  
14 begin to talk about the ties to the United States.

15 It seems that prior to his arrest he had no plan on  
16 staying in the United States, and the only thing that would be  
17 keeping him in the United States would be this case, but I will  
18 hear from you.

19 MR. WEISS: Yes.

20 He did have a plan to return to the United States.  
21 This is a plan that's been 18 years in the formulation.

22 I know that sounds a little cryptic, so let me explain  
23 who he is, what his plans were with respect to the United  
24 States, all of which will then explain what he was thinking of  
25 doing when he was arrested, about to fly out of the United

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1 States at Dulles Airport to London.

2 So, he came to the United States, as the Court may  
3 know from the pleadings, about 18 years ago, roughly the year  
4 2000.

5 He left Iran with the intent never of returning to  
6 live in Iran, and he has never returned to live in Iran. There  
7 have been visits along the way, which I will address, but he  
8 has never lived in Iran since the day that he left.

9 His plan was and he succeeded in coming to the United  
10 States. He went to Cornell undergrad. He got a graduate  
11 degree from Cornell. He went to Wharton.

12 His intent was at the time to stay in the United  
13 States.

14 In 2003, roughly 2003, he filed for asylum. He wanted  
15 to stay in the United States beyond his period as a student,  
16 and in the asylum application he made clear the extent of the  
17 persecution that he had suffered in Iran.

18 And he went to some lengths to talk about how  
19 difficult it was for him in Iran. Indeed it was difficult for  
20 his family. His father had also suffered, despite his  
21 financial successes, at the hands of the authorities there.

22 His asylum application was originally successful, and  
23 his plan was to stay in the United States, to make his life in  
24 the United States, not to make the life abroad, and certainly  
25 not to make a life in Iran.

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1           He had essentially cut his ties with Iran. At this  
2 period of time he was not visiting Iran. He was not going back  
3 to Iran. He was staying in the United States. This is where  
4 he lived, this is where he studied, and his family was here  
5 except for his father. His mother had come here, his two  
6 sisters had come here.

7           His mother eventually became a citizen. His two  
8 sisters are green cards that live in California. His plan,  
9 after graduating school he opened up a small private equity  
10 firm here in the United States -- this is where he lived, this  
11 is where he worked -- when he ran into immigration problems.

12           The immigration problems stemmed from the fact that  
13 the attorney who had represented him in the asylum proceedings  
14 was indicted for immigration fraud in a whole array of cases.

15           There was nothing to his understanding that this  
16 immigration attorney had done in his particular case, but as  
17 one could imagine, given the indictment of the attorney and  
18 given the number of cases that were implicated, DHS was  
19 conducting a review of essentially all of the cases that this  
20 attorney had handled, including Mr. Sadr's case.

21           They started as an almost routine matter filing some  
22 sort of fraud proceeding against asylees who were represented  
23 by that attorney. In his particular case, Mr. Sadr's case, he  
24 was here in the United States.

25           DHS then said, you know, we think that your asylum

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1 status is no longer valid. We are going to revoke it unless  
2 you can show us again that you deserve it.

3 This created a problem, because when DHS made that  
4 announcement, made that decision, he automatically lost his  
5 asylee status, even while he was here contesting their decision  
6 to withdraw his asylee status.

7 Why is that important?

8 He now had no status. He was here, and there are a  
9 lot of asylum seekers who are here in kind of this semi-legal  
10 but semi-not-legal status as they try to maintain their asylum  
11 status even while the government is trying to remove them.

12 Having lost that asylee status created serious  
13 problems for him in terms of his ability to work here and to  
14 run his business.

15 So what he decided to do, because he wanted to stay in  
16 the United States and he still wants to stay in the United  
17 States, is, after consulting with immigration counsel, he  
18 decided he would apply for a green card. He was eligible for a  
19 green card because his wife at the time was an American citizen  
20 studying in -- I think it was G.W., George Washington or  
21 Georgetown in Washington, D.C.

22 But in order to apply for the green card, he had to  
23 leave the country. That's often the case in green card  
24 applications.

25 So, despite the fact that he was married to an



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1 American citizen, and despite the fact that he wanted to stay  
2 in the United States, despite the fact that he had been in the  
3 United States now for about 10 years and this was his home and  
4 he hoped it would always be his home, he left for what he  
5 thought would be no more than a year to reapply, but this time  
6 as a green card, to come to the United States so he could make  
7 the United States his home.

8 He left the United States in order to be able to gain  
9 the status, the immigration status that would enable him to  
10 come back and live in the United States as a green card.

11 THE COURT: Where did he go?

12 MR. WEISS: So, very good question. Where did he go?  
13 The question is he wandered. He spent some time in Dubai. He  
14 spent some time in Europe.

15 Essentially did not have a fixed permanent home. His  
16 wife would come visit him from time to time, but it was a  
17 lonely existence, and he decided at that point perhaps what he  
18 would do temporarily, while he was abroad he started thinking  
19 about maybe he could go to Iran to visit his father. Until now  
20 he had not visited Iran since the time that he had left.

21 But he was living in various places. He was doing a  
22 lot of traveling. He was living in a lot of hotels, waiting  
23 and hoping for the green card to be granted, and he decided to  
24 take a chance to visit his father.

25 Many years had passed since his 2003, several years

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1 had passed since his 2003 asylum application, many years had  
2 passed since the time that he had suffered at the hands of the  
3 Iranian government, and he was ready to take a chance to see if  
4 he could go just to visit.

5 To put it bluntly, the man was lonely, and he could  
6 not come back to the States. His home had become the States.  
7 His wife was here in the States, and his family was here in the  
8 states.

9 THE COURT: Can you tell me, why did he take this  
10 chance if in fact there is this abiding fear of political  
11 persecution?

12 MR. WEISS: Yes. There were a few things.

13 One is that a significant amount of time had passed  
14 since the filing of his 2003 affidavit and the events that they  
15 related to, which were three years earlier.

16 So there had been quite a bit of time that had  
17 elapsed. He was also -- not now, but then -- quite a small  
18 fish, somebody who, although he was concerned about the  
19 Iranians and how they would treat him, was not going to be  
20 number one -- in contrast to his situation now -- on the  
21 Iranian's list of people that they have to track down and trace  
22 and punish.

23 And so he decided to take a chance. It was also  
24 commonly known and proved correct that if you go for a short  
25 visit, if you are not making a presence there, if you are not

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1 buying property, if you are not investing, if you are not  
2 opening a bank account, at the time there wasn't super-careful  
3 scrutiny by the Iranians at the border with respect to the  
4 smaller fish.

5 He decided to take a chance, and he went, with some  
6 trepidation, but he went for a few days.

7 THE COURT: Just back up for a second.

8 MR. WEISS: Yes.

9 THE COURT: At this time are you saying that there's  
10 still this fear of political persecution?

11 MR. WEISS: At this time his fear of political  
12 persecution was still there, but diminished because of the  
13 passage of time, since he had suffered the persecution and the  
14 very significant amount of time since he had last been in Iran.

15 Then there's always the political situation. These  
16 Iranian expats are always looking at Iran and what is the  
17 political situation like today. Is it better than yesterday?  
18 Is it worse than yesterday? Is it more dangerous today? Is it  
19 less dangerous today?

20 He decided to take that chance and to go. It was a  
21 chance.

22 THE COURT: It seems like a mighty big chance if in  
23 fact there's this fear of political persecution.

24 MR. WEISS: I think it was a big chance. I think it  
25 was not as great a chance as it was in 2003, given the passage

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1 of time, and it certainly was not as big a chance as now, which  
2 we'll get to later, where the risk to him would be vastly  
3 greater.

4 But he took a chance, and he went and nothing  
5 happened.

6 THE COURT: You are saying that in his mind at that  
7 time in taking this chance he had hoped, and it turned out to  
8 be correct, that he could sort of slip through?

9 MR. WEISS: Under the radar.

10 And the two expert opinions that we provided to you,  
11 one from professor Amir Amadi -- who is here today, by the way,  
12 and one from Colonel Martin support that, that there is the  
13 ability for people to go in under the radar, especially when  
14 they are the kind of small fish that we are talking about the  
15 characterization of Mr. Sadr at the time as opposed to the  
16 characterization of him now.

17 It was not his intent originally when he went in for a  
18 short visit to make as many visits as he eventually did, but  
19 there were two things that happened, one of particular  
20 significance.

21 The first, and I think particularly important, is that  
22 early on he learned that his father had bladder cancer. At the  
23 time it was believed to be a virtual death sentence, although  
24 the father is still alive and well, as you know -- maybe not  
25 well, but he is alive, as you know from the pleadings.

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1           That vastly added to the impetus to come to Iran when  
2           he could very often for a short visit. These were all very  
3           short visits of a few days either to visit his father or in  
4           some instances to go and get his father and take him out of the  
5           country to Europe for medical treatment that he needed, first  
6           as a result of the bladder cancer and then as a result of some  
7           other serious physical ailments.

8           THE COURT: How was that done?

9           MR. WEISS: How was?

10          THE COURT: The father being taken.

11          You seem to imply in some of the other submissions  
12          that the father is being closely guarded and closely watched,  
13          but at this time he was able to take his father out of the  
14          country --

15          MR. WEISS: Right.

16          THE COURT: -- to Europe.

17          Was there some subterfuge involved in that, or how was  
18          that done?

19          MR. WEISS: As I understand it, the father's passport,  
20          he needs essentially to go to court and get permission from the  
21          authorities each time he wants to leave. He has to explain why  
22          he wants to leave.

23          It's not like -- you or I could just go out and  
24          travel. We don't have to explain to the authorities here where  
25          it is where we want to go or for how long.

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1           He actually has to go to Court and get permission to  
2     leave, and they did give him permission to leave for medical  
3     reasons. Sometimes they would give him permission to leave for  
4     other reasons I think, but medical reasons was one of the  
5     reasons that they would authorize this as they kept a careful  
6     watch on him and authorized him to leave for certain short  
7     periods of time.

8           And it's also at this time -- I don't want to leave  
9     out the business side of this -- that Mr. Sadr, the son, was  
10    not engaged in business in the States now.

11          He was waiting to get back in on his green card, and  
12    his father suggested to his son, you know, at least while this  
13    is going on, why don't you come work for me.

14          This is exactly when the government in the indictment  
15    claims that the whole Venezuela project was taking place, the  
16    Venezuela project that is alleged in the indictment.

17          So the connection between father and son was filial,  
18    it was medical, and then it also developed into this business  
19    arrangement taking place.

20           THE COURT: He was working for the father where?

21           MR. WEISS: This was a Venezuela project. He could  
22    work anywhere on the globe. He was not working out of Iran.  
23    He occasionally had an e-mail or a conversation when was in  
24    Iran, but he was primarily not in Iran. Wherever he was, he  
25    sometimes was in Turkey, he was sometimes in Venezuela, he was

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1 in Dubai for a short period of time, wherever he was, he was  
2 working with the father on this project.

3 A year passed -- and, by the way, when you look, you  
4 know, the government goes on about how many trips there were to  
5 Iran. Those trips to Iran, with just a few exceptions that  
6 came afterwards, were generally during this period, which  
7 turned out, instead of being one year, to be two and a half  
8 years that Mr. Sadr was abroad applying for and waiting to come  
9 back to the United States on his green card to get into the  
10 United States. The vast, vast majority were during that  
11 period.

12 The number of visits which they catalogue, with just a  
13 tiny handful after he got his green card, which was in November  
14 of 2012, and then came back to the United States.

15 One footnote with respect to 2012. The government  
16 makes a big deal of the fact that as part of the immigration  
17 process Mr. Sadr provided another affidavit about his  
18 persecution in Iran in 2012, the very period where he was  
19 entering Iran with some frequency on these short trips. They  
20 claim that shows essentially that he is a liar.

21 That reveals a fundamental misunderstanding and a  
22 misreading of what was going on at the time. Let me explain  
23 that, because there was no misstatement or misrepresentation at  
24 the time.

25 What was going on was, in the course of his green card

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1 application process, DHS was reviewing the history of his  
2 earlier asylum application, and they wanted to be sure that on  
3 the green card they were not admitting anybody or granting a  
4 green card to anybody who had made false statements in the  
5 past.

6 He had filed his original affidavit when represented  
7 by the problematic attorney. So they said was it true that in  
8 2003 you were not going to Iran because you had a fear of  
9 persecution at the time?

10 In 2012, referring back to 2003, he confirmed via  
11 another affidavit that when he had applied for the asylum  
12 application he had what he felt to be a well-founded fear of  
13 persecution.

14 He was not stating in the affidavit that in 2012 he  
15 could no longer go to Iran, but what he was doing was he was  
16 affirming, confirming the accuracy of the affidavit that he had  
17 filed back then. The purpose for asking the affidavit was the  
18 DHS wanted to be sure that they were not granting a green card  
19 to somebody who had intentionally made some sort of fraudulent  
20 application back in 2003.

21 So he finally gets the green card in 2012, and he  
22 returns to the United States. He returned to the United  
23 States, again where his mother lives and his two sisters live,  
24 and it was the intention when he came to the United States to  
25 live in the United States.



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1           It's important to note that in that period that he was  
2 out, although he visited Iran, he did not move back to Iran.  
3 He could have moved back with his father. He didn't. He  
4 didn't want to live in Iran. He would rather wander than live  
5 in Iran. He was going back to Iran because of his father.

6           THE COURT: We are talking now about 2012?

7           Is that what we are talking about?

8           MR. WEISS: November 2012 is when he finally got the  
9 green card and came back to the States.

10          THE COURT: That's when he's still married to the wife  
11 who is a U.S. citizen?

12          MR. WEISS: Yes.

13          THE COURT: And his current wife is not that wife?

14          MR. WEISS: Correct.

15          THE COURT: The current wife is a Turkish citizen?

16          MR. WEISS: Right.

17          They subsequently got divorced and he remarried to his  
18 current wife, with whom he has two children who are American  
19 citizens, both of whom I may add really need their father, a  
20 baby and a two-and-a-half-year-old, and they are, the children  
21 are American citizens his wife is not. His current wife is  
22 not.

23          THE COURT: OK. The first marriage, when did that  
24 dissolve?

25          MR. WEISS: May I check? I don't know off the top of

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1 my head.

2 THE COURT: Sure.

3 MR. WEISS: The divorce was finalized in 2015.

4 THE COURT: OK.

5 All right. His current children are how old?

6 MR. WEISS: A baby and a two-year-old.

7 THE COURT: OK. I thought it was two and half, but  
8 whatever. That is fine. I'm trying to make sure I have the  
9 chronology here.

10 MR. WEISS: Yes.

11 THE COURT: When you were talking before about his  
12 wife visiting him when he was wandering before --

13 MR. WEISS: That was not his current wife.

14 THE COURT: That was the first wife?

15 MR. WEISS: That's correct.

16 And she was a U.S. citizen, and it was on that basis  
17 that he was eligible for the green card at the time.

18 THE COURT: OK. The wife is a Turkish citizen?

19 MR. WEISS: Yes.

20 THE COURT: And the current wife's parents are in  
21 Turkey. Is that correct?

22 MR. WEISS: The dad is actually here in the courtroom,  
23 but, yes, they live in Turkey, yes.

24 The dad and many other family members and potentially  
25 cosigners are here in the courtroom, your Honor.

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1 THE COURT: Other than your client, what is the  
2 current wife's connection to the United States?

3 MR. WEISS: Right.

4 So she currently has or is coming to the end of this  
5 ten-year visa authorization that she has that would allow her  
6 to come in as a tourist only, not as a green card.

7 But they currently, as I was going to get to, when he  
8 came to the United States and after he and his first wife got  
9 divorced and he remarried his Turkish, his wife who is Turkish,  
10 they rented an apartment in London -- didn't buy but rented for  
11 a number of reasons.

12 One reason is because she and he want to live in the  
13 United States and want her to apply for a green card. And if  
14 she's in the United States under her tourist visa, she cannot  
15 apply for a green card, because on a tourist visa you say I am  
16 here just to be a tourist, and then I am going to leave, which  
17 is inconsistent with the green card application.

18 This is another example of how you have to be abroad  
19 to apply to get a green card to live in the United States. The  
20 other reason they rented an apartment in London was because one  
21 of the businesses that he embarked on soon after coming back to  
22 the United States was he invested in a bank in Malta.

23 The bank in Malta, which he was running until this  
24 arrest essentially destroyed the bank, was going to open an  
25 office or a branch or some sort in London.

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1           So, he and his wife made the decision to temporarily  
2           rent an apartment in London so that he can take care of the  
3           business, which was pulling him away from the United States in  
4           any event, and they could -- and she could apply from London  
5           for a green card that would allow them to do what they were  
6           planning to do, which was come back to the United States and  
7           settle in the United States.

8           They bought an apartment in Washington, D.C., and they  
9           spent about a million dollars on the apartment. They spent  
10          about \$500,000 on the amount.

11          The intent originally was to live in that apartment in  
12          Washington, D.C. The reason for Washington, D.C., is  
13          Mr. Sadr's mother lived in suburban Washington, D.C. She lived  
14          in the area.

15                THE COURT: Hold one second.

16                Go ahead.

17                MR. WEISS: Thank you.

18          That plan was adjusted because the two sisters, as  
19          I've mentioned, live in California. They changed their plans  
20          and decided that, although they do want to live in the United  
21          States, they want to make it California rather than the  
22          Washington, D.C., area.

23          The mother sold her home -- it was a very large  
24          home -- and moved into a much smaller apartment pending the  
25          shift to California.

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1           They took the apartment which they had originally  
2 planned to live in and recently put it up for sale so that they  
3 can move to California. Indeed, the family already purchased a  
4 piece of land in California, which has now ended up in the  
5 forfeiture allegations in the indictment, in Malibu.

6           So they came back to the United States intending to  
7 live in the United States, but there were a number of things  
8 that drew him abroad quite often.

9           One was the bank, this bank in Malta, which became  
10 more and more and more of the work that he was doing, and the  
11 other was the plan to set up this apartment in London to enable  
12 the wife to apply for a green card to come back to the United  
13 States.

14           When his wife became pregnant, they made sure that she  
15 would give birth here in the United States both times because  
16 they wanted their children to be U.S. citizens, because they  
17 were intending to moving to the United States and making the  
18 United States their home along with his mother and his sister  
19 in California.

20           So, yes, the government has made quite an argument  
21 about how in the recent past Mr. Sadr has not been in that home  
22 in Georgetown, Washington, D.C., and he's not been that much in  
23 the United States. That is true.

24           In the arc of his life, coming from Iran to the United  
25 States until from 2000 until now, there are a couple of things

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1 that are important to note. He has lived in the United States  
2 more than any other country by far. His adult life has been  
3 more in the United States than anywhere else.

4 He has filed tax returns ever since he got a Social  
5 Security number when he was back at Cornell, U.S. tax returns.

6 Even during those years when he was -- the two and a  
7 half years when he was in this immigration purgatory waiting to  
8 come back to the United States, he still filed U.S. tax  
9 returns.

10 He has never owned an apartment to live in in his name  
11 except in the United States.

12 The credit cards that he has are issued by banks in  
13 the United States.

14 If you had stopped him the day before he was arrested  
15 and said, which is the country that you feel to be your home,  
16 he would have said the United States.

17 If you would have asked him, where do you want to  
18 spend the rest of your life, he would have said the United  
19 States.

20 If you would have asked him -- I mean, he speaks  
21 English at home.

22 If you asked him what his values -- his values are  
23 westernized values. They are very, very far from the very  
24 different values and culture in Iran today.

25 If you had asked him where he wanted to live, he would

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1 have said, We were going to live in Washington, D.C., but our  
2 plan is to live in California.

3 So his ties to the United States are stronger than  
4 they are to any other country. There's no other country where  
5 his ties are stronger, certainly not Iran, and there's no other  
6 country where he's lived in his adult life compared to the  
7 United States.

8 In terms of values, culture, time spent, it's the  
9 United States.

10 He's never lived in Iran since he left, although he's  
11 visited, but he's never lived in Iran since then, and he's  
12 lived now temporarily -- he has an apartment in London for the  
13 reasons that I have explained. He was sojourning for two and a  
14 half years abroad in different places while he was waiting to  
15 come back to the United States.

16 His ties are to the United States. They are not as  
17 tight as your ties. They are not as tight as my ties in the  
18 sense of counting up the days in the past year how many of  
19 those days did he spend in the United States.

20 But where else is he going to go? Iran is not home to  
21 him, and I'm going to get in a minute about his inability to  
22 flee to Iran even if he were inclined to go there.

23 So the other thing I should add in terms of ties to  
24 the United States is he has also purchased real estate here  
25 apart from his apartment, or more accurately he has business

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1 interests that own pistachio farms in California which he helps  
2 run.

3 It's not his everyday job, but that is part of what he  
4 does. Indeed, the family has invested in a series of pistachio  
5 farms in California which he helps run, and some of those have  
6 found their way also into the indictment in the forfeiture  
7 allegations.

8 In addition to his personal ties, now I think I want  
9 to start getting finally to the question that you were asking  
10 at the beginning.

11 His community and his ties are here in the United  
12 States. His friends from Cornell and from his school days, his  
13 friends in the community here in the United States, these are  
14 the people that he's gotten to know, and these are the people  
15 who are ready to put up their homes, their 401(k)s, and their  
16 bank accounts for him.

17 The majority of the people who are signed up in this  
18 extraordinary package are U.S. citizens. I don't remember if  
19 the number was 23 or 24 out of the close to 40 -- maybe 25. I  
20 don't remember the exact number, but it was a clear majority of  
21 the people who are ready to sign up are U.S. citizens, and we  
22 have a fair number -- let me just pull out the -- we have a  
23 fair number who have offered to put up their homes.

24 There are, I think, seven different people are couples  
25 who have offered -- amongst the cosigners who have offered to



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1 put up their homes that aggregate in the many millions of  
2 dollars. These are people who are close to him.

3 What we're proposing in terms of a package, although,  
4 you know, we're open to suggestions, I mean, we will do  
5 anything that we feasibly can, is there will be one package  
6 that we are proposing that he would sign a \$20 million bond and  
7 put up his assets, all his significant assets that he can to  
8 secure that. It would be cosigned by his two sisters and by  
9 his mother, all of whom are financially responsible persons  
10 here in the United States. Again, the two sisters are green  
11 cards. The mother is a citizen.

12 The assets that he would put up are the assets that we  
13 put in our brief, and I should note that some of his assets,  
14 some of which are located abroad, are now temporarily blocked  
15 or frozen by certain foreign governments.

16 For example, Malta has essentially installed a  
17 trustee -- they call it a competent person -- to wind down the  
18 bank. Once they do wind down the bank, any money left over  
19 will return to him as the owner.

20 He has a bank account, he has some assets in Cyprus  
21 which he's disclosed. They've put a temporary block.

22 But we have actually, in terms of the technical  
23 details, various suggestions about how his interest in those  
24 foreign assets can be locked in in a way that would effectively  
25 help with respect to the bail. Those are details that I'm

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1 happy to address if we get there, and hopefully we will get  
2 there.

3 But he is ready to put up his major assets. I say  
4 "major" because he has some bank accounts that, if he's  
5 released, we would like him to have access to to live, for  
6 expenses and so on.

7 His wife and children would live with him.

8 He would live in the apartment in Washington, D.C.,  
9 and he could be in the custody of his mother, who is a  
10 psychologist, and who is, as I said, a U.S. citizen. That  
11 would be kind of one bail package.

12 The second bail package would be the other individual  
13 cosigners. We have up to 36.

14 They are ready -- these numbers have changed a little  
15 bit. They've gotten a little bit better than the numbers that  
16 we put in the papers, but they've got almost \$14 million worth  
17 of bonds that they've volunteered to sign, and it would be  
18 secured by about \$8 million in cash. Some of it is apartments;  
19 some of it is 401(k)s and other assets.

20 These are people who are close to him. Some are  
21 family. Some are cousins in the United States. Some are  
22 childhood friends. Some are colleagues. This is his  
23 community.

24 The way these people came forward, your Honor, was  
25 when he was arrested, the family reached out to anybody and

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1 said, Is there anybody who wants to help Ali?

2 And these people came forward and volunteered. Those  
3 are people who have -- these are people, some of whom have  
4 known him since he was a baby, family and otherwise.

5 These are people who know him, who know his character,  
6 who have faith in his character and are therefore not afraid to  
7 put up in many instances their homes or their assets, confident  
8 that he's not going to flee.

9 They've sent a series of letters, which we have  
10 attached to the filings that we've made. They attest really to  
11 his character and their confidence in him that he will not  
12 flee.

13 For example, to give you one example, this is an  
14 excerpt from Katherine Wharton (phonetic), who was a friend of  
15 15 years from California. This is typical of a lot of these,  
16 and I think it goes to your question: Are these people who are  
17 close to him, who will feel a sting? Will he feel a sting if  
18 he hurts them?

19 So she writes, "Amidst the many distractions of  
20 teenage-hood, Ali was a pillar of strength and respect, someone  
21 I admired for his ability to prioritize his family and his  
22 values. He pushed Nagarin" (phonetic) -- that's one of his  
23 sisters.

24 "He pushed Nagarin and I in a positive direction,  
25 reminding us of the importance of education and focusing on our

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1 goals. He has an old soul and was often at home spending time  
2 with his mother and grandmother and tending to household  
3 responsibilities. Though I knew Ali was originally from Iran,  
4 I always saw him as an American. He embodies the ideals that  
5 America espouses, and his dreams were to start his own family  
6 and to be an entrepreneur where he could provide opportunities  
7 to others."

8 I mean, we've got so many letters like that from  
9 people who really know him and people who have demonstrated  
10 this confidence they have in him by putting up their assets.

11 Let me read to you, if I could, one or two more.

12 This is from in Andrew James Yalsin (phonetic), who is  
13 here today, if I may ask him to stand. He is Mr. Sadr's  
14 brother-in-law he. Married the sister Pegga (phonetic). In  
15 his letter he talks about a glacier mountain climbing trip, and  
16 he goes on at some length the travails they suffered, and he  
17 said, "Ali and I were tied together on a glacier at midnight in  
18 the middle of a blizzard, and together we made it through by  
19 relying on and supporting each other. I trust Ali with my  
20 life. I trust him to come to trial."

21 Again, this is present again and again. They are  
22 putting up their home. His sister Pegga and his brother-in-law  
23 Andrew are putting up real property and their home.

24 If I can return for one moment to the sort of core  
25 bond which Mr. Sadr would sign, we're offering \$20 million,

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1 signed by his mother and his two sisters. The mother has a  
2 million dollars, a little bit more than a million dollars in  
3 equity in two different apartments that she would add to his  
4 package. The sister Pegga has over a million dollars that she  
5 and Andrew would add to the package as well.

6 I might also add that we didn't include but are  
7 prepared to include the sister Pegga has probably over \$4  
8 million in additional assets, which we didn't include because  
9 they are part of the forfeiture allegations, and the government  
10 said we don't want any forfeitable assets to be put up for  
11 bail.

12 Well, we don't think they will be forfeited at the end  
13 of the day. We are prepared to put them up. We think that we  
14 have, as I'll get to in a moment, a strong case, and we think  
15 that ultimately they will not be forfeited.

16 We think that the family and Mr. Sadr have confidence  
17 that they'll win the case, and it therefore will provide added  
18 assurance that he will not flee.

19 This is an amazing package, your Honor.

20 I did this for 18 years when I was in the U.S.  
21 Attorney's Office. I never saw a package like that when I was  
22 a prosecutor, perhaps you have. I am not going to say there's  
23 never been a package like this, but from up to 40 people who  
24 are prepared to come forward and sign people who know Mr. Sadr  
25 and have faith in Mr. Sadr and are ready to demonstrate that

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1 faith, I think that's pretty unusual.

2 I should add that I think it's far in excess of what  
3 the two pretrial services officers had recommended, both the  
4 pretrial services officer in the Eastern District of Virginia  
5 and the pretrial services officer here.

6 I, again, would like to turn to the flight to Iran and  
7 the risk of flight to Iran, and I would like to talk about the  
8 expert opinions that we've provided, two expert opinions and  
9 then two supplemental expert opinions.

10 THE COURT: OK. I've read those. We don't need to go  
11 into detail on that.

12 I may have some questions about that --

13 MR. WEISS: Yes, your Honor.

14 THE COURT: -- later.

15 Again, the concern again is about him being a risk of  
16 flight outside of the United States. Iran is one of those many  
17 places that he's been.

18 MR. WEISS: Right.

19 THE COURT: But there are a lot of places he could  
20 flee to, some of which are places from which he could not be  
21 extradited.

22 That is sort of -- not sort of. That's the concern.  
23 That is the concern.

24 Also let me just focus your attention on this.

25 MR. WEISS: Yes, your Honor.

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1           THE COURT: We didn't talk about this the last time  
2 because you said you wanted some time to respond to the  
3 government's response, but I am disquieted by the fact that in  
4 these asylum applications he talked about fearing political  
5 persecution in Iran.

6           You've explained that the 2012 application was really  
7 just referring back to the application in 2003.

8           MR. WEISS: Yes, your Honor.

9           THE COURT: But it seems to me that it's either one of  
10 two things: Either when he says that he fears political  
11 persecution in Iran, when you take that statement and you  
12 combine it with the fact that he traveled to Iran on multiple  
13 occasions --

14          MR. WEISS: Yes.

15          THE COURT: -- it means to me -- maybe there is  
16 another way of looking at this -- either that he lied in that  
17 application and didn't fear any political persecution, or  
18 perhaps it's, I think what you are saying is that he takes very  
19 big chances. But that is a mighty big chance.

20          Someone who is taking those kinds of chances on  
21 multiple occasions certainly seems like someone who is more of  
22 a risk of flight. Someone who's taking that kind of chance and  
23 trying to sneak into a country in which this person fears being  
24 locked up and tortured and does that on multiple occasions  
25 doesn't give me a lot of confidence that this person is the way

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1 the person in the letter described him as a teenager, sort of  
2 this very sober, calm, homebody, designated-driver type.

3 Can you talk about that?

4 MR. WEISS: Yes, I'm happy to talk about that.

5 Let me first address the most pressing issue: Is he a  
6 risk of flight now?

7 Then I will go back and I think further address the  
8 issue of how truthful he was then.

9 There are a host of reasons which were I think pointed  
10 out by the experts to believe that no matter what chance he  
11 might have taken then, he will not take that chance now.

12 That is because the situation is far more perilous for  
13 him now than it was then. That's because of a whole series of  
14 factors. Each one would be enough I think to change the  
15 calculus, but in the aggregate it makes it almost a certainty,  
16 which is not the standard we need here, of course.

17 THE COURT: Before you go there, let me just pose this  
18 to you.

19 MR. WEISS: Yes.

20 THE COURT: You are talking about taking risks and  
21 taking chances. One usually weighs the potential benefits  
22 against the potential risks.

23 If we go back to what you were talking about before,  
24 when he went to Iran --

25 MR. WEISS: Yes.



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1 THE COURT: -- after he had these issues with his  
2 asylee status.

3 MR. WEISS: Yes, your Honor.

4 THE COURT: You mentioned the fact that he was lonely.

5 MR. WEISS: Yes.

6 THE COURT: He was wandering around, but, again, that  
7 wandering that talking about is not sort of wandering around  
8 like the fictional Bruce Banner in The Incredible Hulk backing  
9 around in tattered clothes going from town to town.

10 MR. WEISS: Right.

11 THE COURT: He's traveling all over the globe.

12 MR. WEISS: Right.

13 THE COURT: And that he felt lonely and thought this  
14 was a good opportunity to connect with his father. I certainly  
15 don't want to minimize his father's medical situation, but as  
16 you explained later, the father was able to leave Iran and go  
17 to other countries --

18 MR. WEISS: For medical treatment.

19 THE COURT: -- to get treatment.

20 It seems to me your client certainly could have met  
21 with his father in those other countries when his father went  
22 to get that treatment.

23 I am not sure what the benefit was for going to Iran  
24 when you weigh it against the potential risk. I understand if  
25 you are saying that then there was a 75 percent chance that he

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1 might get caught, or even if you say it was a 40 percent chance  
2 that he might get caught, but the result of him being caught  
3 according to you is that he would face real persecution and  
4 perhaps be tortured.

5 MR. WEISS: Now.

6 THE COURT: But even then, face real political  
7 persecution --

8 MR. WEISS: Yes.

9 THE COURT: -- for the benefit of seeing his father in  
10 Iran as opposed to seeing his father in Europe and for curing  
11 his loneliness somewhat, even though you indicated that his  
12 previous wife was visiting him in all of these other countries  
13 or some of these other countries where he was.

14 That seems like a pretty big risk to take. If now  
15 what you are saying is hypothetically it is an 85 percent or a  
16 95 percent chance that he would get caught and that he would  
17 suffer grave consequences for going back to Iran, it still  
18 seems that what I am faced with is someone who, according to  
19 you, is a pretty big gambler, takes some pretty big risks.

20 Again, it may be, and I think the government's  
21 position is it's not that he's taking risks. It is that he  
22 lied on the asylum application and he doesn't face any  
23 political persecution.

24 MR. WEISS: Right.

25 THE COURT: But just going on your version of events,

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1 let me hear you talk about that.

2 MR. WEISS: I think, first of all, if you look at the  
3 expert opinions -- and these are two very different experts who  
4 converge in this area, a former colonel in the U.S. army who is  
5 responsible for antiterrorism and anti-Iran actions and a  
6 professor with a very impressive CV who himself is Iranian  
7 born. So he has the academic approach but also the language  
8 skills and sort of the culture.

9 They all say that, as a westernized person with his  
10 background, he was taking some chance when he went there at the  
11 time. They also both say that the chances that he would take  
12 now make it much closer to a certainty. And also the  
13 consequences now -- they talk about torture. The consequences  
14 now would be far more severe, as severe as they might have been  
15 then.

16 Why is that?

17 Well, there are a number of things that have happened  
18 since then. One is the political situation now is different.

19 There was a fair amount of unrest in Iran this past  
20 fall, and it was not just concentrated, as it typically has  
21 been in the, past in kind of the more liberal universities, but  
22 it was spread much more across the country and amongst many  
23 groups that had previously been supporters of the regime. That  
24 has put the regime on edge, in a crackdown mode that --

25 THE COURT: OK. I got it. I understand that.

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1           Again, I have read the reports. I understand all  
2           that.

3           MR. WEISS: OK.

4           THE COURT: My concern is based on what you are saying  
5           is that he, in terms of his history and characteristics,  
6           doesn't show himself in regards to traveling to Iran to be  
7           someone who is particularly cautious when weighing the risks  
8           and benefits. And now he faces this other real risk of being  
9           convicted of a crime and sentenced to jail.

10          MR. WEISS: Yes.

11          THE COURT: If he went to Iran facing potential danger  
12          because he was lonely before, how much more is the incentive to  
13          go somewhere, whether it is Iran, whether it's St. Kitts,  
14          whether it's to London on his way to Brazil, whether it's  
15          somewhere else. It seems that there is a great incentive for  
16          him to leave the United States. I understand that your  
17          position is that of the, whatever number we want to say, the 20  
18          countries that he has visited, the United States is his number  
19          one. Well, it seems like that calculus may change now with  
20          this indictment.

21          Let me just hear you if you want to address that.

22          Again, I have read the reports.

23          MR. WEISS: OK.

24          THE COURT: I understand the reports.

25          MR. WEISS: OK.

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1 THE COURT: I understand their position.

2 My concern is about him, now being faced with this  
3 criminal indictment, being faced with the potential of being  
4 convicted and going to jail, fleeing the United States when he  
5 has had all of this international travel and has traveled to  
6 all of these different countries.

7 MR. WEISS: Right.

8 THE COURT: That's what my concern is.

9 MR. WEISS: So, there are a few different responses to  
10 that.

11 One is we've cited for you a number of cases where  
12 sanctions defendants in criminal cases were granted bail with  
13 connections to the United States that were nonexistent.

14 There was one case, for example, that we quoted, we  
15 cited for you, it was the *Kearny* case out of D.C., where the  
16 defendant was an Israeli South American who had no connections  
17 to the U.S. except he was here on a ski trip. He was charged  
18 with selling nuclear triggers to Pakistan, and he got bail over  
19 the government's objection.

20 THE COURT: Let me see if I can make sure I am being  
21 clear about what I am concerned about.

22 MR. WEISS: Yes.

23 THE COURT: It is not simply a matter of his lack of  
24 ties to the United States. Hypothetically speaking, if we were  
25 talking about a different kind of criminal defendant, someone

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1 who was charged with, say, a similar crime or even the same  
2 crime --

3 MR. WEISS: Yes.

4 THE COURT: -- and he was a citizen of Canada and had  
5 one passport, a Canadian passport, and the government had that  
6 passport and that person had left Canada twice in his life,  
7 once 15 years ago and once 10 years ago --

8 MR. WEISS: Yes.

9 THE COURT: -- the fact that person isn't a U.S.  
10 citizen, the fact that that person doesn't have connections to  
11 the U.S. isn't as troubling as it is when someone has traveled  
12 all over the globe and is more of a risk of flight in that  
13 regard.

14 So it's not simply the fact that he doesn't have ties  
15 to the United States. He has some ties to the United States.

16 What concerns me is I am not sure he has a lot of ties  
17 anywhere. He tends to wander around, which is fine, but it  
18 presents a problem in this sort of situation.

19 MR. WEISS: Right.

20 THE COURT: But he's not particularly solid in terms  
21 of his connections here, nor is he particularly solid anywhere,  
22 but he has connections in London and Dubai and Iran and St.  
23 Kitts and all sorts of other places.

24 So it's not simply a matter of someone who doesn't  
25 have connections to the United States.

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1 MR. WEISS: Right.

2 THE COURT: It's someone who has traveled extensively  
3 and has quite a bit of money. Again, I know we talked about  
4 this the last time as well. It is not a matter of just someone  
5 who is wealthy. If you have a wealthy individual who is  
6 charged with this crime, again, who hadn't had much extensive  
7 international travel and had one passport that the government  
8 had, that's different than what we are talking about here.

9 MR. WEISS: OK. Your Honor, you have raised a big  
10 question with a lot of subparts, and I think I can address  
11 them.

12 THE COURT: OK.

13 MR. WEISS: Let me address the passports.

14 There's been a lot going on here about the passports.  
15 The government started off by claiming he had passports from  
16 four countries. No, he didn't. Three countries.

17 THE COURT: I am sorry to cut you off, but I want you  
18 to move past some of the facts that I am already very familiar  
19 with from the submissions.

20 MR. WEISS: All right.

21 THE COURT: You have explained in your submissions  
22 that the government was mistaken when the government said he  
23 has four passports from St. Kitts.

24 MR. WEISS: Right.

25 THE COURT: And you've explained that he's had four

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1 passports, but the other two basically got filled up, the third  
2 one is almost full, and he has this fourth one.

3 MR. WEISS: Right.

4 THE COURT: But therein lies my concern. It is all  
5 the travel that is filling up all of these different passports.

6 I know that lawyers like to go back and forth at each  
7 other and point out when their opponents make mistakes. The  
8 fact that the government seems to have made some mistakes here  
9 in terms of the facts regarding this bail application is  
10 somewhat more understandable because there is a lot of  
11 confusion dealing with all the travel that he's had and given  
12 the fact that at one point he told pretrial he had \$5 million  
13 and at another point he said \$27 million.

14 There's a lot of things that are moving. There are a  
15 lot of different moving parts here, but I understand your  
16 position --

17 MR. WEISS: OK.

18 THE COURT: -- on the passports.

19 I think your position is that he has passports from  
20 two countries.

21 MR. WEISS: Correct.

22 THE COURT: From Iran and from St. Kitts.

23 MR. WEISS: Correct.

24 THE COURT: So I got that.

25 MR. WEISS: Correct.



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1 As a condition of bail, of course, he has to turn in  
2 every passport he has, expired or not, to the Court or the  
3 government. So he will not have any passports in hand.

4 THE COURT: Where are they now?

5 MR. WEISS: The family has them, and we can turn them  
6 over to the Court as part of bail.

7 THE COURT: OK. Go ahead.

8 Continue.

9 MR. WEISS: And we could, of course.

10 With respect to the countries that he's traveled to,  
11 your Honor, with one exception, which I will address in a  
12 moment, they all have extradition treaties, enforceable  
13 treaties with the United States.

14 The U.K. of course has an extradition treaty with the  
15 United States.

16 St. Kitts, although he hasn't spent much time there,  
17 although he is a citizen, has an extradition treaty with the  
18 United States.

19 Turkey has an extradition treaty with the United  
20 States.

21 I mentioned last time, by the way, that we found an  
22 announcement by the president of turkey where he said they had  
23 extradited 12 people to the United States over the past few  
24 years.

25 And you said something that I interpreted as that's

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1 really not a very large number. Does that give much  
2 confidence?

3 So I went to check see how many the U.K. has  
4 extradited. No one is going to question the relationship  
5 between the U.K. and the United States. And the number was the  
6 same order of magnitude.

7 In other words, the number of international requests  
8 that are made for extradition is not that many. The question  
9 is not how many were actually granted. The question is how  
10 many were not granted or turned down.

11 We have no reason to think he is not a Turkish  
12 citizen, that Turkey would not extradite.

13 Malta, where he has his bank, has an extradition  
14 treaty with the United States.

15 If you go through all the countries that he's traveled  
16 to a regular basis that the government keeps talking about, the  
17 only country that we don't have a current extradition treaty  
18 with is Dubai.

19 Now, that doesn't mean that the United States would  
20 not easily get him even in the absence of a formal extradition  
21 treaty.

22 First of all, Dubai has a statute that says -- and  
23 we've looked into this -- that they can turn over people even  
24 without an extradition treaty upon a request from foreign  
25 nations. And the relationship between United States and Dubai

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1 is such that the United States has tens of thousands of  
2 citizens who live in Dubai. It has a huge naval base in Dubai.

3 The relationship between the United States and Dubai  
4 is very close, and the relationship between Dubai and Iran is  
5 very tense. Dubai is closely allied with the Saudi Arabia in  
6 the whole Shiite/Sunni schism, which is my way of simply saying  
7 that I think if the government would check with its Office of  
8 International Affairs and with the State Department, what it  
9 will find is that, as a practical matter, even if he were to  
10 flee to Dubai, and in the absence of an extradition treaty, if  
11 the United States were to make a request to Dubai for him to be  
12 turned over to the United States, I dare say it would be  
13 granted.

14 And I think that if we check with the experts in the  
15 Justice Department and the State Department, we would find out  
16 that that request would likely be granted.

17 THE COURT: But is it true that the argument that you  
18 are making now in terms of him being able to be extradited from  
19 these other countries presumes that if he went to one of those  
20 countries that he would stay there?

21 Doesn't it presume that, as opposed to him going to  
22 London and then flying somewhere else?

23 MR. WEISS: If he flees the United States -- and how  
24 would he do that? We should talk about the logistics of how he  
25 would be expected to do that. That is not so easily done these

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1 days. Would he swim the Rio Grande and go to Mexico and  
2 then -- what? -- knock on the Iranian door and ask them for a  
3 passport. It is not easily done.

4 As soon as he flees, there are arrest warrants in  
5 Interpol, and they are across the globe when he flies. Unless  
6 he ends up in North Korea or a series of countries almost like  
7 North Korea, given his citizenship, the United States is going  
8 to be able to get him.

9 We understand his international lifestyle. To  
10 counterbalance that, that's why we've offered an unusual  
11 package, a bail package.

12 I normally would not come in with a bail package like  
13 that in a case like this. It is not a presumptive detention  
14 case. It is not a crime of violence. It is not a crime of  
15 drugs.

16 I might also add, in terms of his incentive to flee,  
17 that I think the Court should give zero credence to the  
18 so-called guidelines calculation that the government has made,  
19 where at one point they said, oh, he's going to get a 360-month  
20 sentence for building low-cost housing in Venezuela.

21 Had he done that and been paid in euros instead of  
22 dollars, we wouldn't be here. Even if you willfully -- which  
23 we are going to challenge -- used dollars instead of euros, if  
24 you look, as I have, at criminal sanctions cases, none of the  
25 cases that are remotely comparable have gotten sentences like

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1 that. They've gotten sentences, as we've documented for you,  
2 of a couple of years, 13 months. Those have been the range of  
3 sentences that have been imposed on similar sanctions  
4 defendants.

5 This is not somebody --

6 THE COURT: Wouldn't you agree that, for someone who  
7 hasn't been to jail, that 13 months is still an incentive to  
8 flee?

9 MR. WEISS: It depends where. To Iran? No, I don't  
10 think that is an incentive to flee to Iran given what these  
11 experts say about that.

12 I don't think it's incentive for somebody like this  
13 man, what he does, to spend the rest of his life sort of  
14 wandering in fear from country to country trying to escape the  
15 long arm of the government in the United States Attorney's  
16 Office. No, I don't.

17 And he's got some very good defenses, some very good  
18 defenses, and they are going to be very hard pressed to prove  
19 that he, as a non-U.S. person, a person who is not a citizen  
20 and was outside the United States, Iranian born, working for  
21 his Iranian dad, should have known that, because Venezuela paid  
22 him in dollars, that converted his business into a crime in the  
23 view of the United States.

24 Most people don't know that. Most people don't know  
25 that, because Iranians are allowed to build low-cost housing in

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1 Venezuela.

2 THE COURT: The government did turn over some e-mails.  
3 Have you seen them?

4 MR. WEISS: I have.

5 THE COURT: OK.

6 MR. WEISS: And I think we've already demonstrated in  
7 many instances that the government has made certain  
8 misinterpretations or taken things out of context, and we are  
9 not intimidated by those e-mails. We are not.

10 I understand at first glance why you would look at  
11 some of those e-mails, and -- I don't want to say fall into the  
12 trap, but be convinced that the maybe the government has a good  
13 case.

14 I do Iran sanction cases. I've done them on the  
15 government side, I do them now on the defense side, and those  
16 cases are not always easy to win. This is one of those cases  
17 where it's not going to be easy for the government to win.  
18 This is going to be a hard-fought case, your Honor.

19 The willfulness defense, amongst others, is going to  
20 be, I think, a very vigorous defense. We have not shown you  
21 all our defenses because partly I don't do that before I get  
22 discovery, and don't like to show the government my defenses in  
23 a criminal case until we go to trial.

24 But we given you a few samples of some of the  
25 arguments with respect to willfulness, and this will be a case

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1 with a real defense, your Honor.

2 THE COURT: OK. Let me hear from the government.

3 MR. DeFILIPPIS: Thank you, your Honor.

4 I think it would be worth stepping back just a bit out  
5 of the details of some of the specific arguments that have been  
6 made in this case and just look at the picture of the defendant  
7 that we have that has been built through the parties' arguments  
8 and filings and the pretrial report and everything we know  
9 about this defendant.

10 As your Honor suggested and alluded to, there could  
11 not be more indicators and there could not be more serious  
12 indicators of an incentive to flee here than we have in this  
13 case.

14 Your Honor, it is unprecedented, and if not  
15 unprecedented then certainly extraordinary to have a defendant  
16 with the travel history that this defendant has, leapfrogging,  
17 sojourning, whatever word we want to use, wandering from  
18 country to country to country with no real anchor in any one  
19 place.

20 The defendant's ties to the United States that have  
21 been set out by the telling of defense counsel are for the most  
22 part aspirational.

23 In the context of a bail argument, aspirational ties  
24 to the United States, a desire to someday settle down here are  
25 not what moves the needle for incentive to flee and for bail.

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1           What moves the needle is actual ties, actual  
2 residence, actual grounding in the community that the defendant  
3 is arrested in, and he has none of that or very little of that.

4           But, your Honor, just to point to some of the most  
5 salient factors in this picture of the defendant, he has  
6 multiple passports, including two from one country, and one  
7 from Iran.

8           He has claimed multiple primary countries of residence  
9 in the course of several years.

10          He has claimed in a financial application with his  
11 father to be a primary resident of Dubai.

12          He has claimed in an Iranian passport application to  
13 be a primary resident of Belarus.

14          And he has claimed most recently in his pretrial  
15 interview to have resided in Washington, D.C., since 2013,  
16 something that I think now he would not even claim, something  
17 that the FBI's interview of the doorman in his building has  
18 flatly refuted and something that, frankly, the record we've  
19 developed flatly refutes.

20          The defendant does not live in the United States and  
21 has not in the recent past.

22          Your Honor, the other salient factor here that points  
23 very, very strongly in favor of this defendant incentive to  
24 flee is the access he maintains to massive amounts of wealth  
25 through his company, through his family's business empire.



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1           It truly is in a sense, your Honor, an empire. It is  
2 a conglomerate of many companies in many countries that by the  
3 defendant's own telling and by his father's own telling has  
4 revenues in the billions and possibly many billions of dollars.

5           We've attached to our filings documents in which the  
6 defendant's father claims to be in projects, individual  
7 projects that themselves are worth billions of dollars.

8           They own the largest private bank in Iran, which, by  
9 the family's own telling, grosses 20 to 30 billion dollars or  
10 has revenues of 20 to 30 billion dollars.

11           What the record also makes clear, your Honor, is that  
12 these are not assets cabined in Iran or isolated from the  
13 defendant. They are available to defendant and to his entire  
14 family.

15           So, in our filing of yesterday, your Honor, we  
16 attached numerous e-mails in which you see the defendant's  
17 father instructing him to move 11.5 million euros from one  
18 country to be another, to move 1.5 million euros and to keep  
19 some for himself.

20           It is very clear, your Honor, from the evidence that  
21 the government has produced to the Court that there is great  
22 fluidity and ease of access to the massive amounts of capital  
23 and wealth that has family has access to and has generated. So  
24 the notion that they're cabined in some sort of hermit  
25 environment where they don't have access to their wealth is

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1 simply not true.

2 Now, your Honor, why is that relevant?

3 That is all relevant because, at the end of the day  
4 here, the strongest incentives that this defendant will face  
5 will be to maintain his liberty, will be to go back to his  
6 family, will be to maintain the continuity and the continued  
7 existence of his family's business, and it will be to flee.

8 Your Honor, the asylum application is emblematic of  
9 that. We spend a lot of time I think trying to listen to  
10 strained arguments imposed in hindsight as to why at one  
11 particular time the defendant had a deathly fear of going to  
12 Iran; why for a course of years in which he traveled there 50  
13 times he didn't seem to have that fear and why now again he has  
14 that fear.

15 The simple common thread of when he has the fear and  
16 when he doesn't, your Honor, is when he's asking the U.S.  
17 government or this court for something. He had the fear when  
18 he was applying for asylum. He now has the fear again because  
19 he is applying for bail.

20 But the plain facts, the simplest interpretation of  
21 that history, your Honor, is that the defendant did not have a  
22 genuine fear when he filed his asylum application, then  
23 traveled to Iran 50 times.

24 Now the defense lawyer inserted in court today, your  
25 Honor, that this was to protect his father's health, to visit

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1 his father.

2 Your Honor already pointed out some of the oddities or  
3 inconsistencies in that desire to go back to Iran. However,  
4 the e-mails that the government has uncovered in its  
5 investigation shows that his father's health was not the  
6 primary fact, the primary reason he went back there.

7 Just as an example, your Honor, in July of 2011, the  
8 government attached to its submission an e-mail in which the  
9 defendant said that he was going to Tehran for about a week in  
10 order to attend meetings of the general assembly of this  
11 private bank that they run in Iran.

12 So it's clear to the government, it's clear I think  
13 from our submissions and the evidence uncovered to date that  
14 these trips to Iran were done in the normal course of the  
15 defendant's business operations, in the normal course of his  
16 globetrotting, which he does with no real anchor in any  
17 particular country, and therefore no real ties that would  
18 ground him anywhere, much less in the United States, your  
19 Honor.

20 Just, your Honor, as an example, because I think it is  
21 illustrative, to pick a time period from February 2015 to April  
22 2015 -- and this is representative of the entire time period  
23 that we are talking about -- these were the flights, the  
24 international flights that the defendant took during that  
25 merely seven-month period:

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1 Istanbul to Malta; Malta to Istanbul; London to  
2 Washington Dulles; Dulles to Frankfurt; Frankfurt to Malta;  
3 Malta to Istanbul; Istanbul to Malta; Istanbul to Tehran;  
4 Tehran to Istanbul; Istanbul to Malta; Malta to Frankfurt.

5 And it goes on, your Honor. It is a dizzying pattern  
6 of travel around the world that shows just how easily, just how  
7 quickly, and just how thoughtlessly the defendant is able to  
8 take advantage of the international global travel system and  
9 how he does so with ease.

10 Your Honor, I do want to focus for a moment on the  
11 cosigners and on the defendant's package which he has put  
12 together.

13 Let's look at this proposed bail package in the  
14 context of everything that I have just spoken about, in the  
15 context of the family's global business conglomerate worth many  
16 billions of dollars or certainly several billion dollars.

17 What will a \$20 million or even a \$30 million or even  
18 a \$40 million bond mean to the defendant? Will it sting him?  
19 Will it anchor him?

20 Your Honor, it will not.

21 His incentives in this case in the charges he's facing  
22 are going to be to preserve his liberty, as I said before, to  
23 preserve his ties to his family, and to preserve their  
24 well-being, his well-being and his lifestyle.

25 Whether 40 or 400 people put their money or their

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1 property or their lives on the line is not going to affect that  
2 calculus, because, first, 13 of those people are people already  
3 in his family, people whose property very well may be subject  
4 to forfeiture anyway, so it's not a real sacrifice to put that  
5 up if they are going to lose it anyway after a conviction.

6 And those 13 people -- excuse me, your Honor, these 13  
7 people are either in his family or reside in Turkey outside the  
8 United States.

9 So those are people who, as I said, it's not really a  
10 meaningful sacrifice in the sense that, if much of it is  
11 subject to forfeiture, they are going to lose it anyway.

12 Secondly, again, our office would not typically  
13 approval a cosigner in Turkey because they have no meaningful  
14 ties here, and the ability to seize their assets were the  
15 defendant to flee is likely nonexistent.

16 But, your Honor, the reason why all of these cosigners  
17 don't change his incentives are, first, because, as I said,  
18 many of them are already within his orbit.

19 In addition, your Honor, the defendant would much  
20 rather reunite with his family, preserve their well-being,  
21 preserve their lifestyle, even if that means that some of his  
22 father-in-law's friends or his college friends face the  
23 prospect that the government would seize their assets.

24 Because, like anyone, the people who matter are those  
25 closest to him. The thing that matters most to him is his

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1 liberty, and no amount of cosigners is going to change that,  
2 particularly in light of the massive difference between the  
3 value of the wealth that he has access to by virtue of his  
4 family business, as compared to what to anyone else would be an  
5 enormous bond, but to him and his family is not proportionally  
6 a huge sting or something that will meaningfully change his  
7 incentives.

8 I would also point out, your Honor, that the  
9 defendant's father is referred to in the indictment as a  
10 coconspirator. It was, in fact, the defendant's father for  
11 whom the defendant was working and with whom he was working  
12 when he committed the conduct that he is charged in the  
13 indictment.

14 His father is in many ways the leader of this family  
15 business conglomerate, and so he is described as a  
16 coconspirator in the indictment. He as much or more than the  
17 defendant will have every incentive to help the defendant evade  
18 responsibility for these proceedings, protect the family's  
19 business, and protect the defendant's liberty.

20 Your Honor, I would also note -- and your Honor made  
21 this point, but I want to emphasize it, which is it is not the  
22 government's burden to prove that the defendant would flee to  
23 Iran.

24 We heard some discussion of various countries and what  
25 their extradition treaties are, but, just as one example,

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1 Turkey, Turkey would be in many ways a very high danger of a  
2 place to which the defendant might flee.

3 Why? Because, first, as we see from the cosigners'  
4 letters that the defendant submitted, many of those people  
5 reside in Turkey. As I understand it, his wife is Turkish, and  
6 so there are a lot of family ties to Turkey.

7 Second, and speaking as a prosecutor for the United  
8 States government and a member of a unit in our office that  
9 deals with extradition on a frequent basis, whatever 12  
10 extraditions occurred in the past -- and, in fact, we  
11 researched that. They were not extraditions, they were  
12 deportations from Turkey of U.S. citizens who had been charged  
13 with crimes. So there were 12 instances in recent memory in  
14 which they deported citizens, but did not extradite.

15 That climate, to the extent that it permitted, that  
16 before has changed markedly now. Extraditions from Turkey  
17 are -- again speaking from experience and from speaking to  
18 others in the government -- is at a standstill, a virtual  
19 standstill.

20 I would note a recent case in this district, the  
21 Zarrab prosecution, in which Zarrab and another defendant,  
22 Atilla, were charged with sanctions violations. It is a good  
23 test case as to how the Turkish government might react to this  
24 defendant's charges and his presence in Turkey.

25 In response to that case, the Turkish government,

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1 among other things, initiated a criminal investigation of two  
2 of our now former U.S. attorneys and of others in our office  
3 because the Turkish government was so upset at the prospect  
4 that these individuals have been charged with evading Iranian  
5 sanctions through Turkey.

6 So their reaction was to take law enforcement action  
7 against the United States government, not in any way to help  
8 find fugitives of justice.

9 So, your Honor, I think it simply belies common sense  
10 and is wildly implausible to think that the Turkish government  
11 would extradite Mr. Sadr were he to go there. So he would have  
12 every incentive to flee there or elsewhere.

13 Again, given his vast access to the global travel  
14 network and his ability to travel easily, he could do it in any  
15 number of ways.

16 Your Honor, the final point here is that the passports  
17 are emblematic of a problem that I think we have and that this  
18 Court has in getting any kind of reasonable assurance that the  
19 defendant will return to court, which is that the St. Kitts and  
20 Nevis passports, which he bought under an investment program  
21 that has been criticized for facilitating fraud and  
22 facilitating sanctions violations, those the government found  
23 out about in the course of researching for these bail  
24 proceedings, but were not something that were volunteered by  
25 the defendant.



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1           The fact that he had more than one St. Kitts and Nevis  
2 passport, had Judge Moses bailed him last week, we never would  
3 have known about it, and perhaps he could have fled on that  
4 other passport.

5           So, the fact is, your Honor, there seems to be a lot  
6 of changing of the goalposts here, a lot of confusion that is  
7 confusion made of the fact that the defendant simply plays  
8 shell games in which he moves from one place to another, moves  
9 money from one place to another, buys passports from multiple  
10 places, and it's very difficult to get a handle on what he's  
11 doing, where his assets are where his travel might be, and it's  
12 that uncertainty that I think, your Honor, adds to the  
13 government's argument in favor of detention.

14           THE COURT: OK. Thank you.

15           Anything else from the defense on this?

16           MR. WEISS: Just a few things, your Honor.

17           The first thing I would like to mention is, with  
18 respect to the acquisition of the St. Kitts passports, that was  
19 done entirely legally through a program that is analogous to a  
20 program that we have in the United States.

21           In other words, they seem to be faulting him for  
22 having acquired a St. Kitts passport by making investments in  
23 the St. Kitts economy. St. Kitts has a program whereby if you  
24 invest a certain amount you can get a passport. We have that  
25 here. It's the EB-5 program. There are many people -- in the

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1 United States it's 500,000 to a million dollars, depending on  
2 the circumstances. It's simply a different price.

3 So if you condemn St. Kitts for providing passports  
4 for those who invest in the economy, you are condemning the  
5 United States for the same program.

6 But Turkey -- let me just talk about briefly in  
7 Turkey. The situation is not the least bit comparable. That  
8 was a situation where, outside the extradition context. The  
9 U.S. nabbed a Turkish citizen.

10 We are talking here about whether Turkey would turn  
11 over an Iranian citizen who was requested through the standard  
12 extradition process, an entirely different case.

13 Saying that Turkey gets upset with the United States  
14 which it acts outside the extradition process is no indication  
15 of what it would do when the U.S. acts within the judicial  
16 process.

17 But, most importantly, I want to talk about the  
18 package. That is, we seem to have moved from a position -- and  
19 the government has moved the goalposts more times than it  
20 accuses the defendant of having done so, where they originally  
21 said he's going to reimburse the cosigners, and now what  
22 they're saying is he's just going to leave the cosigners high  
23 and dry because he doesn't care. His liberty is more important  
24 to him.

25 THE COURT: I don't think the government necessarily

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1 said that. I raised that concern.

2 MR. WEISS: But I heard the government say it just  
3 now.

4 I think that the reason we had these individuals  
5 submit the statements or the affidavits that they are not going  
6 to accept anything is to show that this is going to be a real  
7 sting, unless the government or somebody is of the view that  
8 all these people have lied in these affidavits.

9 So the question is, will Mr. Sadr flee knowing that  
10 the people who are putting up their homes and their 401(k)s,  
11 many of them will be left destitute if he flees without any  
12 hope of compensation for them.

13 And he talked about some of them are from Turkey.  
14 That's true. But, as I said before, 24, 25 of them are U.S.  
15 citizens, some of whom are putting up not only their homes but  
16 also their retirement plans.

17 And these are people who have known him and who he has  
18 known who have contacts with him and who have contacts with the  
19 family and will be hurt and will be stung. He will destroy his  
20 family and his family's relationship with their cousins and  
21 their friends and the people in their community if he destroys  
22 them by casting many of them out on the street without a place  
23 to live. May I have just one moment, your Honor.

24 THE COURT: Yes.

25 MR. WEISS: A couple of things.

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1           One is let me add to the Turkey example. There are a  
2           number of foreign countries, including Turkey and Cyprus, that  
3           have already taken steps against him. Malta is another one.

4           In other words, the mere fact of this indictment,  
5           without his having been there, has already caused a number of  
6           these countries that the government is supposedly concerned  
7           about to take steps adverse to him, closing accounts, closing  
8           down his bank, and so on.

9           So that I think what we are seeing is the beginning of  
10          exactly what we are predicting, is that these are countries  
11          that will extradite him, will turn him over back to the United  
12          States should he try to flee.

13          Also, I should add that we're prepared to agree that  
14          he be -- a bracelet, home monitored under the strictest  
15          conditions.

16          So just the logistics of how he would do it, I mean,  
17          we will turn over the passports, we will turn over all the  
18          passports. We will provide an affidavit that is it is all the  
19          passports.

20          How will he flee? How will he travel?

21          In this day and age it's not what it used to be  
22          anymore, where you just run -- he can't -- he's not going to  
23          just flee and then disappear into -- melt into the population  
24          here in the United States. It's not -- so just the logistics  
25          of how he would do that are virtually incomprehensible to me.

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1           We think, your Honor, with this unprecedented bail  
2 package and with appropriate monitoring that the government  
3 cannot meet its burden of demonstrating and it has the burden  
4 of demonstrating that he is a risk of flight.

5           THE COURT: To the extent that you can, can you tell  
6 me what percentage of the assets that you wish to pledge to  
7 secure this bond are not being sought for forfeiture by the  
8 government?

9           MR. WEISS: OK.

10          Yes, your Honor.

11          The assets that -- let me start with the -- apart from  
12 him and his immediate family, all the other cosigners, those  
13 are not forfeitable assets. So, that package, the homes that  
14 they are prepared to put up, the 401(k)s, those are not  
15 forfeitable.

16          With respect to his assets, your Honor -- let me just  
17 have one moment.

18          If you look at the assets that we've listed out in our  
19 brief, the one asset or set of assets that the government  
20 claims are forfeitable are the pistachio farms that have a  
21 series of corporate names.

22          That leaves about \$16.8 million out of the roughly 27  
23 that he could put up.

24          Some of that is located abroad. For example, the  
25 amount that he invested in the Malta bank is included in that

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1 amount. But I do have suggestions as to the ways that he can  
2 post the amounts that he has abroad, including those amounts  
3 that have been temporarily blocked or frozen by the foreign  
4 governments, all as a result of this indictment.

5 As I indicated, the sisters are ready to put up --  
6 some of their property is not forfeiture related, and then they  
7 have -- one of the sisters, Pegga, is prepared, has about  
8 another \$4 million or so that she's prepared to put up. In  
9 addition to the home that she owns are the two pieces of  
10 property that she owns, which is forfeitable property.

11 Your Honor, I have to say, I mean, the two children  
12 here need their father and we need him, too. This is a very  
13 complicated case, your Honor. And it is very hard -- it's a  
14 case that he is very active in participating in.

15 There is a terabyte of data that he needs to review  
16 along with us, and when the cases get this complex, the ability  
17 to mount a defense is significantly compromised when we have to  
18 go and see him at the MDC.

19 Even with -- I know we talked about it last week --  
20 getting some assistance from the government and the Court, but  
21 with all that, he needs to come into my offices to be able to  
22 sit for weeks on end in front of a computer and go through the  
23 documents and advise us of the significance of the documents  
24 that we're being provided.

25 In the few instances that we have been able to do so,

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1 he's already persuaded me that we have some real defenses, that  
2 what he did did not violate this statute.

3 A case that requires this much involvement, this much  
4 intense involvement on the part of the client becomes very hard  
5 to prepare when he is detained and we have to get access  
6 through the MDC or the MCC.

7 THE COURT: OK. Let me just have a couple of quick  
8 questions for the government.

9 The government does have the burden to show risk of  
10 flight by a preponderance of the evidence. I do believe the  
11 government has shown that.

12 The government also needs to show by a preponderance  
13 of the evidence that there are no conditions or combination of  
14 conditions that can reasonably assure that he'll show up in  
15 court.

16 So let me hear from you a little bit more on that  
17 latter part.

18 MR. DeFILIPPIS: Yes, your Honor.

19 A few points in response to that.

20 The first is that the overall point we made about the  
21 sting that the defendant would feel from this package as  
22 compared to the resources available to him and his family  
23 members through their global companies is one very strong  
24 reason why the government cannot be sure of that.

25 And to use another example, it is not only the

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1 defendant who has access to those resources, we attached an  
2 e-mail in which the defendant and his father signed a mortgage  
3 for his sister's home in London in which his father used the  
4 fact that he claimed to have 115 million in personal assets and  
5 the defendant claimed to have millions of dollars in personal  
6 assets as well.

7 So, again, your Honor, it goes to the point that we  
8 cannot be sure that these cosigners, that this package as a  
9 whole will be any anchor on the defendant.

10 Is that along the lines of what your Honor is  
11 thinking?

12 THE COURT: Yes. I want to make sure that I fully  
13 understand your position. I will give you a chance to consult  
14 were your colleagues if you like.

15 is your position that there is no condition or  
16 combination of conditions that will reasonably assure that he  
17 comes to court, or is your position that this proposed package  
18 doesn't cut it?

19 MR. DeFILIPPIS: Sorry, your Honor.

20 Yes, our position is that there is no combination of  
21 conditions that will reasonably assure the defendant's  
22 appearance in court, and that is because I think this package  
23 itself illustrates on some level a concession from the  
24 defendant and his lawyers that the incentives are enormous in  
25 favor of flight here.



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1           So, in order to come up with something that even might  
2           be considered plausible for the Court, they had to get 40,  
3           almost 40 cosigners, something that's unprecedented in my  
4           experience, you know, huge amounts of money.

5           But when we are in those sorts of numbers and we're  
6           looking at the numbers of the wealth that is available to this  
7           family, our position is, yes, that whether it's 40 or 20 or a  
8           hundred, it's not going to move the needle in terms of the  
9           enormous incentives and the pull here to flee.

10          Combined with the practical -- your Honor, if it were  
11          true that turning in a passport closed off the ability of  
12          someone to leave a country and travel, then we would never  
13          detain defendants who turn in their passports.

14          That's simply not the case, and it is certainly not  
15          the case that we encounter often, or even ever, defendants who  
16          have shown such ability to travel with ease and to move from  
17          one country to the next. I think it's hard to imagine a case  
18          where the ability to assure the defendant's appearance in court  
19          would be harder.

20                 THE COURT: OK. I'll be back.

21                 (Recess)

22                 THE COURT: I believe the government has proven by a  
23          preponderance of the evidence that the defendant is a risk of  
24          flight, that he poses a risk of flight.

25                 However, at this stage I do not believe that the

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1 government has proven by a preponderance of the evidence that  
2 there are no conditions or combination of conditions that can  
3 reasonably assure that he will appear in court as directed.

4 I do find that this package is insufficient based on  
5 the information that I have now.

6 I would like to have more information about Mr. Sadr's  
7 financial circumstances. I would like to find out more  
8 information about how many of his assets are not reasonably  
9 subject to forfeiture.

10 I would like to get a sense, if possible, of how much  
11 money is available to him through his father or other  
12 relatives, and I would like to get a clearer sense of the  
13 relationships that these other individuals have to him who wish  
14 to sign the bond and their relative financial means, how much  
15 it will actually sting them.

16 From some of the affidavits it's clear that it will  
17 sting some of these people quite a bit. From some of the  
18 others I am not so sure.

19 Again, the government is required to prove by a  
20 preponderance of the evidence that there are no conditions or  
21 combination of conditions that can reasonably assure that he  
22 will appear in court.

23 I am not required to determine whether or not there is  
24 a guarantee that he will come to court, but the government must  
25 prove by a preponderance of the evidence that the there are no

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1 conditions or combination of conditions that will reasonably  
2 assure that he will come to court.

3 So I will deny the defendant's request for bail at  
4 this point.

5 How do the parties wish to proceed?

6 MR. WEISS: May we have a moment, your Honor.

7 THE COURT: Sure.

8 (Pause)

9 MR. WEISS: Your Honor.

10 THE COURT: Yes.

11 MR. WEISS: Thank you for your patience.

12 We will take on the challenge of trying to get for you  
13 the additional information that will hopefully allow you to  
14 make the finding that by a preponderance of the evidence we  
15 have put together a package that will assure his appearance.

16 We are going to start work on that right away. I  
17 can't tell you exactly how long it will take us to do it.

18 What I would propose is, we are going to get out of  
19 here and start working, and that we do two things:

20 We'll take it upon ourselves within a relatively short  
21 period to notify the Court of when we think we will be ready to  
22 proceed with the next stage, and then we will provide a written  
23 submission to the Court and the government and ask for a  
24 continued bail detention hearing as soon thereafter as  
25 possible.

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1 THE COURT: OK.

2 MR. WEISS: I would also ask, since at least for now  
3 he is detained, I would ask that we accordingly change some of  
4 the discovery dates, one date in particular which you set when  
5 we were here last time.

6 We sort of set up two tiers of discovery, more  
7 important stuff which is due to us in one week, but you did  
8 give them 60 days for what they characterize as the lesser  
9 stuff.

10 Since there's the possibility that Mr. Sadr is going  
11 to be detained, we think unless and until we get him out we  
12 would like to put this case on a fast track.

13 I don't think, after working on the case for five  
14 years, they should take 60 days -- or now it would be 60 days  
15 minus a week -- to get us all of the discovery in the case.

16 So I would ask that you give them a deadline of next  
17 week to get us all the discovery, not just the first-tier  
18 discovery in one week. There's no reason they should not be  
19 able to do that in a case they have been working on since 2013.

20 THE COURT: Let me hear from government.

21 MR. DeFILIPPIS: Yes, your Honor.

22 The government opposes that application. At the time  
23 of our last court appearance, we made an honest assessment,  
24 which I think we described as one that we wanted to leave -- we  
25 thought we would get the discovery sooner, but in an abundance

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1 of caution we made it 60 days.

2 At that time the government certainly didn't know the  
3 outcome of the bail proceedings, but I think we all  
4 contemplated the defendant might be either detained or not  
5 detained, and we set the deadline under those parameters.

6 So we don't see any reason to change that. I think  
7 everyone could have foreseen that he might be detained at our  
8 next appearance and beyond.

9 THE COURT: OK. Let me ask you this, then, counsel  
10 for the government: This other category of discovery, what  
11 form will this take? This will be in an electronic form I take  
12 it?

13 MR. DeFILIPPIS: Yes, your Honor.

14 It will be probably in large quantity just because of  
15 many -- much of the e-mail discovery and other documents, there  
16 will likely be the process of putting together thumb drives or  
17 hard drives. And we will certainly endeavor to do it faster  
18 than 60 days, as we said at the first conference, and I expect  
19 we probably will.

20 THE COURT: This first batch of discovery that's going  
21 out sometime next week I believe, how much discovery is that?

22 MR. DeFILIPPIS: You mean in gigabytes or --

23 THE COURT: Sure.

24 MR. DeFILIPPIS: Your Honor, again, maybe it's my lack  
25 of technical savvy. I am not sure. It's subpoena returns in

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1 the dozens of subpoenas, plus some additional documents. So  
2 it's voluminous but not -- because we are focusing on what we  
3 call the important discovery, it is not massive, what we intend  
4 to get out next week, but it's -- it would probably fit on a  
5 USB or a thumb drive, your Honor.

6 THE COURT: OK.

7 All right. My sense is that from the defense's  
8 perspective, you would want to start working on this discovery  
9 as soon as you get it. It sounds like what you may be getting  
10 next week very well may keep you busy for the next 45 to 60  
11 days.

12 So my inclination is not to order the government to --  
13 let me find out from the government first, before I make that  
14 decision, why would it take the government 60 days to turn over  
15 this other information, or would it actually take 60 days?

16 MR. DeFILIPPIS: Your Honor, I expect it will take  
17 less, but when we're compiling large amounts of e-mail data  
18 from multiple accounts on drives and making decisions about  
19 what's discoverable and what's not, you know, including any  
20 applications, I think it's the technical process that we just  
21 want to build room, that if there's some kind of holdup going  
22 back and forth, some hard drives, asking for, you know, defense  
23 counsel, getting it to the MCC. You know, typically when  
24 there's voluminous discovery, you know, if the standard case  
25 would take a month, it's not particularly voluminous, we would

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1 like to build in a little more time. But we will certainly  
2 endeavor to do it sooner than 60 days.

3 THE COURT: OK.

4 Understanding the potential limits of technology and  
5 the like, let's have the government endeavor to turn over this  
6 second-tier discovery in, let's call it 40 days.

7 OK?

8 MR. DeFILIPPIS: Yes, your Honor. We will.

9 THE COURT: All right.

10 Anything else from defense counsel?

11 MR. WEISS: Your Honor, we are, of course, not  
12 prepared today to talk about a trial date, but I do want to  
13 alert the court that we will be seeking, if he is detained, a  
14 very speedy trial.

15 THE COURT: OK.

16 MR. WEISS: I think once we get the discovery we will  
17 be in a much better position to do so. We are not in a  
18 position to do so today, but I do want to let the court know.

19 THE COURT: Let me find out from the government, do  
20 you have an estimate at this point as to how long the trial  
21 would be?

22 MR. DeFILIPPIS: Your Honor, I would expect  
23 approximately two weeks.

24 THE COURT: OK.

25 Does defense counsel at this point have any estimate

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1 as to hypothetically, if there were a defense case, how much  
2 longer that would take?

3 MR. WEISS: Well, of course, much of the defense case  
4 in this case is done through cross-examination of the  
5 government's witnesses, as the Court knows. But, from having  
6 done these cases, I would be surprised if this case doesn't  
7 take a month.

8 THE COURT: OK.

9 MR. WEISS: I'm happy to update that once we get the  
10 rest of the discovery and I know more.

11 Now I'm guessing.

12 THE COURT: OK.

13 Let's do this. I understand that the government is  
14 going to be turning over some discovery and the defense is  
15 going to be consulting with their client. Let's have another  
16 date. Let's just set another control date so that we have a  
17 date on the calendar.

18 How about May the 16th just as a date for a status  
19 conference?

20 Does that day work for everyone. That is a Wednesday.

21 MR. DeFILIPPIS: Fine for the government, your Honor.

22 MR. WEISS: I don't have permission yet to bring my  
23 phone to court, which I didn't take care of. Based on my  
24 memory of my calendar, I think May 16 is OK. Once I get my  
25 phone, I will check. If it's a problem, I will let the Court



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1 know. I will also take steps to get me to a place where I can  
2 do that.

3 THE COURT: OK.

4 MR. WEISS: Just to make it clear, that's --

5 THE COURT: That is a control date.

6 MR. WEISS: A control date.

7 THE COURT: I understand that you may well wish to  
8 come to Court before then. That is fine. Just let know in a  
9 letter.

10 MR. WEISS: Yes.

11 THE COURT: I just want to have a control date.

12 MR. WEISS: Thank you. Yes.

13 THE COURT: Let's have a status conference set for May  
14 16 at 11 a.m.

15 This does seem to me -- let me hear from counsel --  
16 that based on the representations about the voluminous  
17 discovery and the nature of the discovery in this case that  
18 this is a complex case that would take it out of the ambit of  
19 the Speedy Trial Act, although I know that the defense wants to  
20 have a speedy trial and we will do what we can to get that done  
21 as expeditiously as possible, but regardless, my intention is  
22 to exclude time from today's date until May 16, to exclude time  
23 under the Speedy Trial Act so that the defense will have an  
24 opportunity to review the discovery that will be turned over  
25 quickly to be better prepared for trial.

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1           Let me hear from the government or the defense as to  
2 whether or not you have any objection to that.

3           MR. DeFILIPPIS: No objection from the government,  
4 your Honor.

5           MR. WEISS: No objection, your Honor.

6           THE COURT: OK.

7           Then, again, I will exclude time than the Speedy Trial  
8 Act from today's date until May 16. I find that it's in the  
9 interest of justice to exclude that time.

10           I further find that the interest of Mr. Sadr and the  
11 interest of justice outweigh the public's interest in a speedy  
12 trial, and I will enter an order to that effect.

13           Let me also say this: I know that the defense is  
14 contemplating coming back with another package. The government  
15 in their recent submission has given me some more information  
16 about the finances that are potentially available to Mr. Sadr  
17 outside of the country of Iran, and the defense should  
18 certainly address those as well.

19           Anything else from the government?

20           MR. DeFILIPPIS: No, your Honor.

21           THE COURT: Anything else from the defense?

22           MR. WEISS: No, your Honor. Thank you.

23           THE COURT: OK. We are adjourned.

24           (Adjourned)  
25